

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Harris Rogers	Team: Squad #07	CCRB Case #: 202204396	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Friday, 06/03/2022 2:51 AM	Location of Incident: § 87(2)(b)	18 Mo. SOL 12/3/2023	Precinct: 76		
Date/Time CV Reported Wed, 07/06/2022 8:51 AM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Wed, 07/06/2022 8:51 AM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. PO Michael Perez	23014	970076	076 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. SGT Syed Hashmi	01997	950570	076 PCT
2. PO Victor Guerrero	22244	971978	076 PCT
3. PO Michael Amankwah	02597	973051	076 PCT
4. PO Justin Collins	18685	961703	076 PCT
5. PO Elethia Jenkins	21292	963079	076 PCT
6. PO Brandon Peraza	09881	973138	076 PCT
7. PO Felix Rosa	14543	953339	076 PCT
8. PO Kenly Garcia	25244	971948	076 PCT
9. PO Cindy Lawrence	03004	956039	076 PCT
10. PO Jason Xia	01519	965625	076 PCT

Officer(s)	Allegation	Investigator Recommendation
A. PO Michael Perez	Abuse: Police Officer Michael Perez entered § 87(2)(b) in Brooklyn.	§ 87(2)(b)
B. PO Michael Perez	Force: Police Officer Michael Perez used physical force against § 87(2)(b)	§ 87(2)(b)
C. PO Michael Perez	Abuse: Police Officer Michael Perez threatened to arrest § 87(2)(b)	§ 87(2)(b)

## Case Summary

On June 6, 2022, the CCRB received the following complaint from § 87(2)(b) via the CRRB website [BR 1].

At approximately 02:51 a.m. on June 3, 2022, § 87(2)(b) and his spouse, § 87(2)(b) were at their home located at § 87(2)(b) in Brooklyn. § 87(2)(b) responded to a doorbell ring and spoke with Police Officer Michael Perez of the 76 Precinct, who requested to conduct a wellness check at § 87(2)(b) due to a 911 call received that indicated an assault may be occurring at that location. § 87(2)(b) repeatedly denied consent for PO Perez to enter the building. PO Perez then entered § 87(2)(b) [Allegation A: Abuse of Authority – Entry of Premises, § 87(2)(g)] by pushing past § 87(2)(b) who was standing in the doorway of § 87(2)(b) [Allegation B: Force – Physical Force: Pushed/Shoved/Threw, § 87(2)(g)] Once inside § 87(2)(b) PO Perez threatened to arrest § 87(2)(b) [Allegation C: Abuse of Authority – Threat of Arrest, § 87(2)(g)]

The investigation is in possession of BWC recordings generated by PO Victor Guerrero [BR 2], PO Perez [BR 3], Sergeant Syed Hashmi [BR 4], Police Officer Jason Xia [BR 5] and 7 other officers from the 76 Precinct that responded to § 87(2)(b)

The investigation is also in possession of footage submitted to the CCRB by § 87(2)(b) § 87(2)(b) submitted five videos, two of which are Ring Camera footage depicting the front porch stoop area of § 87(2)(b) and the remaining three are videos § 87(2)(b) recorded inside of § 87(2)(b) after PO Perez entered the residence [BR 6].

## Findings and Recommendations

**Allegation (A) Abuse of Authority: Police Officer Michael Perez entered § 87(2)(b) in Brooklyn.**

**Allegation (B) Force: Police Officer Michael Perez used physical force against § 87(2)(b)**

**Allegation (C) Abuse of Authority: Police Officer Michael Perez threatened to arrest § 87(2)(b)**

At approximately 2:35 a.m. on June 3, 2022 [BR 7], a NYC 911 dispatcher received a call from a male 911 dispatcher located in Foxborough, Massachusetts, calling the NYPD on behalf of the Mansfield, Massachusetts police department. The Foxborough dispatcher informed the NYC dispatcher that a female caller, § 87(2)(b) reported that she had been on a Snapchat video call with her friend, § 87(2)(b) when § 87(2)(b) witnessed § 87(2)(b) be struck by an unidentified Black male individual. The video call with § 87(2)(b) was then ended by someone in possession of § 87(2)(b) phone. § 87(2)(b) then received a message via Snapchat from § 87(2)(b) account which stated, “You’ll never hear from her again”. The Foxborough dispatcher informed the NYC dispatcher that the alleged assault occurred at approximately 1:10 a.m. on June 3, 2022, that injuries were unknown, and then provided § 87(2)(b) in Brooklyn as a possible incident location. The Foxborough dispatcher told the NYC dispatcher that § 87(2)(b) phone had been “pinged” and had shown to be “in the area” of § 87(2)(b) The Foxborough dispatcher also noted that the only information that had been provided was § 87(2)(b) name and Snapchat username, and that the Foxborough dispatcher had obtained § 87(2)(b) from Snapchat using a “police form”. The Foxborough dispatcher also provided § 87(2)(b) as a callback number for § 87(2)(b)

During his interview with the CCRB [BR 8], § 87(2)(b) stated to the CCRB that, at approximately 02:51 a.m. on June 3, 2022, at his home at § 87(2)(b) PO Perez rang the doorbell to

the building. § 87(2)(b) lives with his spouse, § 87(2)(b) on the first and second floor of the building. The third floor of the building is occupied by two tenants, § 87(2)(b) and § 87(2)(b). The front entrance to the building consists of an exterior door, followed by a vestibule and an additional door, which leads into a shared hallway with a staircase. The front entrance to the building has a lock and requires a key to open.

Two officers arrived at § 87(2)(b) and rang the doorbell. § 87(2)(b) who was awake and had observed the lights of the police vehicle from inside the apartment, answered the door and spoke briefly with the officers [BR 9]. § 87(2)(b) observed § 87(2)(b) speaking with the officers through a EUFY doorbell camera equipped with audio, which shows the front entrance of the home. PO Perez, accompanied by PO Guerrero, spoke with § 87(2)(b) and told her that the officers received a 911 call about a domestic violence incident on a Snapchat video. § 87(2)(b) denied knowing who the name of the person the officers were looking for was, told the officers that they had the wrong address, and closed the door.

At approximately 2:50 a.m., Police Officer Michael Perez and Police Officer Victor Guerrero, both from the 76 Precinct, arrived at § 87(2)(b) in Brooklyn. PO Perez activated his BWC at 02:52:22 [BR 3], and his standing on the porch, directly in front of the entrance of § 87(2)(b). PO Guerrero activated his BWC at approximately the same time [BR 2]. In the minute prior to activating their BWCs, both officers had been standing near the front entrance of § 87(2)(b) before returning to their police vehicle. After activating their BWCs, both officers returned to the front entrance of § 87(2)(b). PO Perez then rang the doorbell to § 87(2)(b). PO Guerrero was positioned behind PO Perez on the sidewalk in front of § 87(2)(b). There is no immediate response to the doorbell being rung. Twenty seconds later, PO Perez rings the same doorbell for a second time. At 1:57 on PO Perez's BWC [BR 4], and within 15 seconds of PO Perez ringing the doorbell for a second time, § 87(2)(b) one of the residents of § 87(2)(b) opens the door of § 87(2)(b). § 87(2)(b) greets the officers. PO Perez introduces himself and PO Guerrero and asks § 87(2)(b) if she knows anyone by the name of § 87(2)(b). PO Perez appears to struggle with the pronunciation of § 87(2)(b) last name, pronouncing it approximately as § 87(2)(b). § 87(2)(b) replies that she does not know anyone by the name of Andrea or Andrea § 87(2)(b). PO Guerrero asks § 87(2)(b) if she is the first or second floor apartment. § 87(2)(b) replies, "both". PO Perez then asks § 87(2)(b) if there is a third-floor apartment. § 87(2)(b) replies that there is. PO Perez asks § 87(2)(b) who lives in the third-floor apartment. § 87(2)(b) replies that the occupants of the third floor are named § 87(2)(b) and § 87(2)(b). PO Perez then requests from § 87(2)(b) to "check upstairs" because it was reported to the police that "something was going on upstairs".

Before § 87(2)(b) responds, PO Perez also asks § 87(2)(b) if she had heard any noise or any fighting. § 87(2)(b) replies that she has not, and that she's been awake for approximately 15 minutes. PO Perez states that the incident in question took place at approximately 1 a.m. § 87(2)(b) notes that she has dogs that respond to the voices of people. PO Perez then asks to check the third-floor apartment. § 87(2)(b) responds, "you can ring their bell". PO Perez asks which doorbell he should ring. § 87(2)(b) points to the top doorbell on the outside of the front entrance and states "it is this one".

PO Perez then presses the top doorbell twice. There is no response. PO Perez then places a call, and asks "did you call the police? For your friend, § 87(2)(b)". PO Perez then asks the person on the other end of the call, presumably § 87(2)(b) if she lives with § 87(2)(b). The voice on the phone is barely distinguishable, but PO Perez replies "No? Because we're right here. Right in front of § 87(2)(b) it's in Brooklyn, right?". § 87(2)(b) responses are not audible on PO Perez's BWC. At timestamp 02:55:56, PO Perez asks, "Carroll Gardens, § 87(2)(b) right? This is the address that we got". § 87(2)(b) is heard responding, partially muffled, "I have no idea where she lives. Last time I talked to her she lived in Providence". This moment is also captured on the § 87(2)(b) Ring

Camera [BR 10]. § 87(2)(b) continues to speak, but her statements are not discernible, either on PO Perez's BWC or on Ring Camera footage.

PO Perez then asks, "this was, like, in Providence?". § 87(2)(b) response is audible on the Ring Camera footage. § 87(2)(b) is heard responding [BR 10], "I don't know where she lives. I don't know where she lives, I really don't" at video timestamp 02:15. PO Perez, seemingly to himself and in a puzzled manner, says "hmm". PO Perez then asks, at 05:07 on his BWC, "when was the last time you came over here? Never been to her house, or?". § 87(2)(b) reply is again discernible on the Ring camera footage, at 02:47. § 87(2)(b) replies, "No, I've never been to her house." § 87(2)(b) continues to speak, but it is unclear what she is saying, due in part to chatter from a police radio. PO Perez asks, "but where though?". At Ring camera timestamp 02:58, § 87(2)(b) appears to reply, "I don't know", and then speaks at length, but her voice is again obscured by chatter from a radio. At 03:14 on his BWC, PO Perez rings the doorbell. He then tells PO Guerrero, while gesturing with his hand to the front door, "yeah, we're gonna check". PO Perez then tells § 87(2)(b) "this is the address that we've got right now, we're gonna just go and check right now, we're gonna go upstairs and see if this is the right address, but we spoke to a neighbor, and she said..... I don't know her by name".

§ 87(2)(b) then opens the door. PO Perez, while still on the phone, then immediately says "we're gonna check upstairs ma'am", and steps closer to the open front entrance. § 87(2)(b) then asks "ok, can you let me go up?". PO Perez replies, "I have to check ma'am", and steps across the threshold of the open front door. § 87(2)(b) replies, "please wait a moment, I'm gonna check, I'm gonna call them, ok?". As § 87(2)(b) is talking, PO Perez takes another step inside § 87(2)(b). PO Perez's entire body is inside § 87(2)(b) at this point. § 87(2)(b) says, "excuse me, please step back". Several loud noises are heard in the background. PO Perez asks, "what is that going on?". § 87(2)(b) replies, that's my husband coming down". The Ring footage then stops.

PO Guerrero's BWC also captures PO Perez's entry into § 87(2)(b) [BR 2]. At 06:20 on PO Guerrero's BWC, § 87(2)(b) is shown standing on the left side of the doorway, inside of § 87(2)(b) with the front door to the building partially open. PO Perez is approximately one foot inside of the entrance and is standing face-to-face with § 87(2)(b). § 87(2)(b) appears to have her right arm on the partially open door. PO Perez begins to move towards § 87(2)(b) further into the building, and says "Miss!" twice in quick succession, while continuing to move slowly forward. At 6:22, PO Perez begins to push past § 87(2)(b) who yells "step back!", after PO Perez places his left hand on her right forearm, which is still holding the open front door. PO Perez then used his left forearm to press against § 87(2)(b) upper back and push her into and to the right side of the vestibule, while squeezing his body through the gap that is now open between § 87(2)(b) and the interior of § 87(2)(b). PO Perez's use of force to enter § 87(2)(b) lasts around 3 seconds.

Once inside, PO Guerrero's BWC shows PO Perez stepping approximately 10 feet inside of § 87(2)(b) into a hallway, where PO Perez is confronted by § 87(2)(b). PO Guerrero remains inside the vestibule of the building and does not enter the hallway.

PO Perez's BWC shows PO Perez entering the building at video timestamp 06:22 [BR 3]. PO Perez is immediately met by § 87(2)(b) who is shown approaching PO Perez in the hallway. § 87(2)(b) positions himself between PO Perez and a staircase in the first-floor hallway. § 87(2)(b) begins to record on his phone, and repeatedly asks PO Perez to "Please leave". PO Perez repeatedly states that the officers received a call, and that they "need to check". At 07:50, PO Perez tells § 87(2)(b) "You are preventing me from doing my job" twice. At 07:55, § 87(2)(b) says "please leave my house, this is not obstruction". PO Perez responds, "yes, you are obstructing" twice. Throughout his conversation with PO Perez, § 87(2)(b) continuously requests that PO Perez

leave the building. PO Perez does not do so. At 08:12, PO Perez again states “you are obstructing”, then says “I’m gonna go upstairs”. § 87(2)(b) replies “No!”, and again requests that PO Perez leave. At 08:20, PO Perez tells § 87(2)(b) “I’m gonna give you, like, a verbal warning”. PO Perez repeats this statement twice. PO Perez continues to insist that he needs to check the upstairs apartment. At 08:35, PO Perez receives a phone call. At 08:52, PO Perez tells the person on the other end of the phone states, “I’m about to just push him away so I can just check and see what is going on”. § 87(2)(b) is within earshot of this comment.

At 16:35, Sergeant Syed Hashmi of the 76 Precinct enters the building [BR 4]. Sgt. Hashmi speaks with PO Perez, who explains that the officers are attempting to perform a wellness check for a woman whose friend reported seeing her struck on Snapchat, and that § 87(2)(b) is preventing PO Perez from doing so. Sgt. Hashmi then speaks with § 87(2)(b) who again denies consent for the officers to enter the building. At 19:28, Sgt. Hashmi tells § 87(2)(b) “Ok, I’m gonna confirm with the caller”, and then steps outside. The conversation between Sgt. Hashmi and § 87(2)(b) appears cordial. PO Perez remains inside the building as Sgt. Hashmi steps outside.

In PO Jason Xia’s BWC footage [BR 5], at timestamp 05:35, Sgt. Hashmi instructs PO Xia to call the third-party caller, after Sgt. Hashmi concluded speaking with § 87(2)(b) for the first time. PO Xia calls § 87(2)(b). After § 87(2)(b) explains the situation to PO Xia, at timestamp 07:36, PO Xia asks “what is the location”. § 87(2)(b) can be heard saying “I don’t know”. Sgt. Hashmi is standing in front of PO Xia and can hear PO Xia’s questions and responses to the caller. PO Xia asks § 87(2)(b) where the boyfriend of § 87(2)(b) lives. § 87(2)(b) can be heard replying “I don’t know where he lives”. PO Xia, who appears to be increasingly skeptical and surprised based on his tone of voice, replies “You don’t know where he lives?” at 07:50. At 07:56, Sgt. Hashmi requests that PO Xia put § 87(2)(b) call on speakerphone. PO Xia does so. PO Xia asks if § 87(2)(b) ever told the 911 operator that § 87(2)(b) in Brooklyn was the location. § 87(2)(b) states that she did not. § 87(2)(b) does not know any of § 87(2)(b) previous address. § 87(2)(b) states that she only ever called the Mansfield, Massachusetts police department.

Sgt. Hashmi then re-enters § 87(2)(b) [BR 4], where PO Perez and § 87(2)(b) are still standing in the front hallway, and tells § 87(2)(b) “We’re here for a good deed, ok? We’re not here to bother anyone, we have a reason to be here, that’s why we were here, ok? You have a good night, ok?”. PO Perez and Sgt. Hashmi then exit the apartment. At 10:52 on Sgt. Hashmi’s BWC, PO Xia states to PO Perez “she didn’t even call 911 in New York, she called in Massachusetts. PO Perez responds, “no but the way that they were acting was funny, like they were hiding something”. All the officers then leave the area of § 87(2)(b).

In his interview with the CCRB [BR 11], PO Perez recalled himself and PO Guerrero responding to the job at § 87(2)(b) that the address listed on the job was § 87(2)(b) in Brooklyn, and that the Job description was a 911 caller reporting that she witnessed her friend, § 87(2)(b) being physically assaulted via Snapchat. PO Perez spoke with § 87(2)(b) who did not recognize the name § 87(2)(b) and had not heard any fighting coming from the upstairs apartment. PO Perez also recalled that § 87(2)(b) provided him with the names of the tenants in the third-floor apartment of § 87(2)(b). PO Perez could not recall the names provided to him by § 87(2)(b) but did recall that none of the names was § 87(2)(b). After being instructed to do so by § 87(2)(b) PO Perez rang the doorbell to the third-floor apartment of § 87(2)(b). No one responded. PO Perez could see from the street in front of § 87(2)(b) that the third-floor apartment lights were off.

After receiving no response from the third-floor apartment, PO Perez placed a call to the third-party caller. PO Perez spoke with the third-party caller, who informed PO Perez that she did not know the address for § 87(2)(b) but that the third-party stated the address was “somewhere in Brooklyn”. PO Perez then knocked on the door of § 87(2)(b) and spoke with § 87(2)(b) for a

second time, informing her that the officers had to conduct a wellness check by knocking on the door of § 87(2)(b) to ensure that “everything was ok”. § 87(2)(b) then refused the officers consent to enter the apartment. According to PO Perez, he then “squeezed himself” past § 87(2)(b). PO Perez acknowledged in his interview that he came into physical contact with § 87(2)(b) and that the reason he entered the home, despite lacking consent from § 87(2)(b) was because there was “cause for concern”, due to the worry of the third-party caller, and the behavior of § 87(2)(b). PO Perez believed that § 87(2)(b) was acting in a suspicious manner because she was not allowing the officers to enter and repeatedly instructed the officers to ring the third-floor doorbell, which PO Perez interpreted as wanting the officers to leave the property. PO Perez stated that he was acting on his instinct that something was “fishy” when he decided to enter § 87(2)(b). § 87(2)(b) blocked PO Perez’s path to the staircase. PO Perez told § 87(2)(b) that he was preventing the officer’s from doing their job and told § 87(2)(b) that he was obstructing the officers, a statement that PO Perez intended as a warning. PO Perez never stated to § 87(2)(b) what the consequence might be if § 87(2)(b) ignored this warning but noted during his interview that § 87(2)(b) could have been arrested for Obstruction of Governmental Administration, based on the possibility that “something was going on”. PO Perez explained that he was not threatening § 87(2)(b) with arrest because, at that moment, he had no evidence that anything was going on.

[People v. Desmarat, 38 A.D.3d 913, 914, 38 A.D.3d 913, 833 N.Y.S.2d 559 \(App. Div. 2nd Dept.\)](#)

[BR 12], addresses the issue of a group of officers entering a motel room after receiving a radio call, and subsequently discovering a body lying near the rear exit door of the motel. Upon further observation, the officers noticed ripped clothing and paper currency under the window of a nearby room and entered the room with the assistance of a motel employee. The court ruled that the officer’s entry into the room was proper, as the court’s only question for the court’s consideration under the Fourth Amendment was whether the police had reasonable grounds to believe that there was an emergency at hand and whether there was some reasonable basis, approximating probable cause, to associate the emergency with the area or place to be searched. In totality, the objective facts observed by the police provided them with a reasonable basis to believe that an emergency was at hand, that other persons may have been at risk of injury, and that the emergency was associated with the room that the officers entered.

According to Patrol Guide Procedure 221-01, which sets out standards for the reasonable use of force by officers, officers are instructed to consider a number of factors, including the severity of the circumstances, actions taken by the subject, and the immediacy of the perceived threat.

In this case, a 911 operator from Mansfield, Massachusetts determined there might be an emergency at hand “in the area” of § 87(2)(b) in Brooklyn. PO Perez responded to the call, relayed to him by a NYC 911 dispatcher, and attempted to investigate. Upon arriving at the location, § 87(2)(b) denied PO Perez consent to enter the building to conduct a wellness check of the third-floor apartment. This raised PO Perez’s suspicion that something might be wrong at the location and that officer assistance might be needed. However, PO Perez was unable to cite any specific actions taken by § 87(2)(b) that raised his suspicion, aside from § 87(2)(b) denying PO Perez entry, and instructing him to ring the doorbell for the third-floor apartment.

PO Perez spoke with the 911 caller and determined that the 911 caller did not know where the victim of the alleged assault lived, or where the assault occurred. Regardless, based on the information provided by the 911 operator that the victim was in the area of § 87(2)(b), PO Perez attempted to enter the building to conduct a wellness check. PO Perez entered the building despite § 87(2)(b) refusal to provide consent.

§ 87(2)(g)

PO Perez did not know where the emergency was, and did not conduct any additional investigative work to determine if the location he was about to enter was, in fact, the location of the alleged assault. In his CCRB interview, PO Perez stated that, at the time he entered § 87(2)(b) he had no evidence that an assault was occurring, and that he acted instinctually in making his entry. In the EVENT generated regarding this incident, it appears that a number for the alleged victim is listed [BR 13]. PO Perez did not call this number. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Upon entering § 87(2)(b) PO Perez also made repeated comments that could reasonably be interpreted as a threat of arrest. PO Perez twice told § 87(2)(b) “You are preventing me from doing my job”. After § 87(2)(b) replied, “this is not obstruction”, PO Perez told § 87(2)(b) “Yes, you are obstructing”. Later in the confrontation, after § 87(2)(b) repeatedly told PO Perez to leave the property, and refused to allow PO Perez upstairs, PO Perez told § 87(2)(b) “I’m gonna give you, like, a verbal warning”.

PO Perez also stated in his interview with the CCRB [BR 11] that he intended these comments as a warning to § 87(2)(b) and that although PO Perez never explicitly told § 87(2)(b) that he could be arrested, that he could have arrested § 87(2)(b) for Obstruction of Governmental Administration (OGA), based on PO Perez’s suspicion that “something was going on”. PO Perez also acknowledged that he did not arrest § 87(2)(b) for OGA because, at the moment he made these comments to § 87(2)(b) he had no evidence that something was wrong at § 87(2)(b).

According to NY Penal Law 195.05 [BR 14], Obstructing Governmental Administration in the Second Degree, “A person is guilty of obstructing governmental administration when he intentionally obstructs, impairs or perverts the administration of law or other governmental function or prevents or attempts to prevent a public servant from performing an official function, by means of intimidation, physical force or interference, or by means of any independently unlawful act”.

§ 87(2)(g)

### Civilian and Officer CCRB Histories

- This is the first CCRB complaint in which § 87(2)(b) and § 87(2)(b) has been listed as a Complainant/Victim [BR 15].
- Police Officer Michael Perez has been a member of service for 2 years and has been a subject in one other CCRB complaint and 6 allegations, none of which were substantiated. § 87(2)(g)

## Mediation, Civil, and Criminal Histories

- § 87(2)(b) declined to mediate this complaint.
- No Notice of Claim has been filed in regard to this complaint [BR 17].

- **[§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]**

Squad: 7

Investigator: James Harris Rogers      Investigator Harris Rogers      11/10/2022  
Signature      Print Title & Name      Date

Squad Leader: \_\_\_\_\_

Signature \_\_\_\_\_ Print Title & Name \_\_\_\_\_ Date \_\_\_\_\_

Manager Vanessa Rosen February 7, 2023

Reviewer: \_\_\_\_\_

Signature \_\_\_\_\_ Print Title & Name \_\_\_\_\_ Date \_\_\_\_\_